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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

BILLY E. PITTMAN)	Case No. <u>'16CV1717 W DHB</u>
)	
Plaintiff,)	
vs.)	
)	COMPLAINT FOR DAMAGES
SCRIPPS HEALTH CORPORATION and)	
DOES 1-10)	
)	
Defendants)	
)	
)	

Plaintiff Billy E. Pittman ("Plaintiff") alleges as follows:

FACTUAL ALLEGATIONS

1. On September 28, 2015, Plaintiff wrote a letter to Victor Buzachero requesting to meet as soon as possible. Plaintiff informed Mr. Buzachero that it was a very urgent request because Plaintiff was being forced to work in a very hostile work environment. At that time, Plaintiff worked in Information Services in the Network Engineering department. Plaintiff's manager at the time was Dutch Wolff, who was, at all times mentioned in this complaint, employed by defendant. In the

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1 September 28, 2015 letter, Plaintiff explained the events of August 13, 2015.
2 Plaintiff informed Mr. Buzachero that, on August 13, 2015, he was called into the
3 manager's office about the network at Green Hospital going down. Mr. Wolff
4 informed Plaintiff that the reason the network went down was because Plaintiff was
5 negligent. Mr. Wolff claimed that, because Plaintiff did not update all of the ICX
6 brocade stack switches and 2.12 closet, the Green Hospital network went down. At
7 the August 13, 2015 meeting, Plaintiff thought he had completed all of the work on
8 the closets, and told Mr. Wolff so. After the meeting, Plaintiff went back to the
9 hospital to double check and discovered that some of the closets had not been
10 updated. Plaintiff immediately sent an email to defendant stating that he discovered
11 that he had not updated all of the closets, as he thought he had, and admitting that
12 he made a mistake in reporting that all closets had been updated. Mr. Wolff told
13 Plaintiff that, since Plaintiff had caused the network to go down, that result was
14 grounds for termination. Plaintiff was placed on administrative leave pending an
15 investigation from personnel. On August 25, 2016, Plaintiff was called back into
16 the personnel office to be notified of the results of the investigation. On August 25,
17 2016, Alan Furman informed Plaintiff that he would be reinstated but would have
18 to go through a performance improvement program. Mr. Wolff told Plaintiff "I
19 wanted you fired but you are being reinstated." Mr. Wolff told Plaintiff that the
20 reason he wanted to fire Plaintiff was because of the catastrophic network failure at
21 Green Hospital.

- 22 2. On or about August 26, 2016, Tim Stout and his team went out to Green
23 Hospital to upgrade the switches that were missed. When the team reloaded the
24 switch in the 2.12 IDF closet, the ICX switch crashed the network again. Tim Stout
25 discovered that the root cause of the network failure was a G bit card and a bad
26 switch, not Plaintiff's failure to upgrade some of the closets. Plaintiff was falsely

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1 accused by Mr. Wolff of negligently causing Green Hospital's network to go down,
2 by failing to prevent software failure at Green Hospital. The alleged software
3 failure did not cause Green Hospital's network to go down. Plaintiff also conducted
4 his own investigation. He spoke to Brocade, the manufacturer of the software and
5 hardware used at Green Hospital, about the software and hardware failure at Green
6 Hospital. Brocade informed Plaintiff that factors other than software failure caused
7 the switch to fail. Brocade stated that, if the switch is operating under extreme heat,
8 its components will suffer degradation which will degrade its function. In addition,
9 Tim Stout sent an email noting other factors which contributed to the network
10 failure at Green Hospital which had nothing to do with my actions and which had
11 nothing to do with software failure. Plaintiff believes, and informed defendant, that
12 hardware failure was 100 percent responsible for the catastrophic event at Green
13 Hospital, because, even when the software was reloaded the switch failed causing
14 the network to go down. The only way to fix the problem was to replace the
15 hardware. Once the Data Team replaced the G bit and switch, the problem was
16 solved, so the root cause of the network failure was hardware. The stress was so
17 severe that Plaintiff had to go on a leave of absence due to stress in September of
18 2015.

- 19 3. Despite being cleared of causing Green Hospital's network to go down, by
20 defendant's own team, Mr. Wolfe continued to harass and badmouth Plaintiff and
21 to create a hostile work environment designed to intimidate and bully him into
22 leaving his job, voluntarily or involuntarily. Mr. Wolff began to make statements
23 and comments about Plaintiff that suggested that he was too old to do his job and
24 that he should find another job. Mr. Wolff started assigning special projects of
25 writing SOP's with no specific instructions. Once the projects were submitted to
26 Mr. Wolff, he rejected them. Plaintiff felt that nothing he could do would be good
27

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1 enough. Plaintiff felt a constant threat hanging over his head while working at the
2 Sorrento Valley location, while doing his performance improvement tasks.

- 3 4. Plaintiff has been the victim of disparate treatment by defendant, due to his age,
4 who is over the age of 60, and his race, African-American. Younger employees and
5 employees of the Caucasian race, have received write ups for not completing tasks,
6 where Plaintiff received a suspension. Younger employees and employees of the
7 Caucasian race make their own hours and keep their own hours without citations or
8 repercussion, while Plaintiff is written up and cited for "excessive tardiness".
9 Despite being forced to exonerate Plaintiff by the results of his investigation, Tim
10 Stout has retaliated against Plaintiff. Two in half years ago, at a "Great Place to
11 Work" meeting with Plaintiff's director and the Data team, Mr. Fritz encouraged
12 Plaintiff and the others at the meeting to say what was on their minds. Plaintiff
13 stated aloud that Tim Stout could not be trusted. Since that meeting, Tim Stout has
14 retaliated against Plaintiff every chance he could get. Tim Stout called blacks "too
15 stupid to do networking jobs." Tim Stout referred to blacks as "beaners" a
16 derogatory term for blacks who are too stupid to do their jobs. Defendant's
17 employees made discriminatory comments about Plaintiff's age. Mr. Furman, a
18 white male employed as defendant's Human Resources Workforce Relations
19 Advisor, who is in his 50's, told Plaintiff that "Scripps outgrew" Plaintiff.
20 Defendant employees told Plaintiff he was "getting older" and that he had to work
21 in a less demanding location. Defendant's employee asked Plaintiff during his
22 review, how old he was and stated that Plaintiff was too old to do the job.
23 Defendant employees told Plaintiff he needed to find another job because he was
24 too old to work at Scripps and asked him when he would retire. On December 9,
25 2015, Mr. Wolff, a white male in his 30's, who was employed as a Network
26 Engineering Manager, said to Plaintiff: "When are you going to retire?"

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1 Defendant's younger management employees also stated that other employees who
2 were the same or similar age of Plaintiff were too old and needed to retire and that
3 they were way too old to be working. Plaintiff was told by Defendant that he was
4 getting too old to be working in hospitals.

- 5 5. On February 28, 2015, March 23, 2015 Plaintiff had surgery on both of his hands
6 which prevented him from working. After returning to work from his hand surgery,
7 Plaintiff was assigned tasks that were too difficult given the state of his hands. This
8 was in retaliation for filing an EEOC complaint and making other complaints about
9 race and age discrimination against Defendant.
- 10 6. Defendant fired Plaintiff from his job that he had worked since 2001.
- 11 7. On March 21, 2016, Plaintiff filed an EEOC complaint against defendant, charging
12 age discrimination and race discrimination.
- 13 8. On April 5, 2016, the EEOC provided Plaintiff with a Notice of Right to Sue, a
14 copy of which is attached hereto and which is incorporated by reference. Plaintiff
15 demands a jury in this case.

16 JURISDICTION AND VENUE

- 17 9. Jurisdiction is proper because this case involves federal questions. Venue is
18 proper because all of the events described in this complaint occurred in San Diego
19 County.
20

21 PARTIES

- 22
- 23 10. Plaintiff is an individual who resides and worked in San Diego County.
- 24 11. Defendant is a corporation which operates in San Diego County and was the
25 employer of Plaintiff at all times relevant in this complaint.
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12. The true names and capacities of the Defendants, DOES 1 through 10, inclusive, whether individual, corporate, associate or otherwise, are unknown to Plaintiff at the time of filing this Complaint and Plaintiff, therefore, sues said Defendants by such fictitious names and will ask leave of court to amend this Complaint to show their true names or capacities when the same have been ascertained. Plaintiff is informed, and believes, and thereon alleges, that each of the DOE Defendants is, in some manner, responsible for the events and happenings herein set forth and proximately caused injury and damages to the Plaintiff as herein alleged.

13. At all times herein mentioned, each of the Defendants were the agents, servants and employee of each of the remaining Defendants, and were, at all times herein mentioned, acting within the scope of said agency and employment.

**FIRST CAUSE OF ACTION
FOR VIOLATION OF TITLE VII OF THE CIVIL RIGHTS ACT OF 1964
42 U.S.C. SECTIONS 2000e et. seq.**

14. Plaintiff incorporates by reference as if stated in full herein, the foregoing paragraphs 1-13.

15. Plaintiff was retaliated against, and fired, because he reported, on more than one occasion, that his employer was violating state and federal laws, including, without limitation, discriminating against its employees on the basis of race and age.

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1 16. Plaintiff was fired because the defendant wanted to get rid of a
2 whistleblower.

3
4 17. Plaintiff was qualified to perform the job in question.

5 18. Plaintiff had been doing the job for 15 years before his termination.

6 19. Plaintiff suffered adverse employment actions, including being fired.
7

8 **SECOND CAUSE OF ACTION**
9 **FOR VIOLATION OF THE AGE DISCRIMINATION IN EMPLOYMENT**
10 **ACT OF 1967**

11 20. Plaintiff incorporates by reference as if stated in full herein, the foregoing
12 paragraphs 1-19.

13 21. Plaintiff alleges that Defendants violated Title VII of the Civil Rights Act of
14 1964, 42 U.S.C. Sections 2000e et. seq., the Age Discrimination and Employment
15 Act of 1967, 29 U.S.C. Sections 621 et. seq., and the American with Disabilities
16 Act of 1990, 42 U.S.C. Sections 126 et. seq., and that Defendant engaged in unfair
17 and deceptive business practices in violation of California Business and Professions
18 Code Section 17200.
19
20

21 **THIRD CAUSE OF ACTION**
22 **FOR VIOLATION OF THE AMERICAN WITH DISABILITIES ACT OF**
23 **1990 42 U.S.C. Sections 126 et. seq.**

24
25 22. Plaintiff incorporates by reference as if stated in full herein, the foregoing
26 paragraphs 1-21.

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1 23. Plaintiff applied for promotions but was denied promotions vis a vis younger
2 candidates.

3
4 24. Plaintiff applied for promotions which he was denied on the basis of race,
5 age, and disability.

6 25. Defendants violated the Americans with Disabilities laws, by refusing to
7 accommodate his disability in the work place.

8
9 26. Plaintiff was discriminated against based on race, in that he was terminated
10 for actions far less serious than those of persons from other races.

11
12 27. Plaintiff was the victim of disparate treatment, as compared to other
13 employees.

14
15 **FOURTH CAUSE OF ACTION**
16 **FOR VIOLATION OF CALIFORNIA BUSINESS AND PROFESSIONS CODE**
17 **SECTION 17200**

18 28. Plaintiff incorporates by reference as if stated in full herein, the foregoing
19 paragraphs 1-27.

20 29. Defendant engaged in a course of deceptive conduct which culminated in
21 his termination.

22 30. Defendant's penalizing whistleblowers by terminating them for the same
23 conduct engaged in by other employees, who are not terminated, is an unfair and
24 deceptive business practice.
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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgments against the Defendants, and each of them as follows:

1. Damages in the amount of \$500,000.00.
2. Reinstatement on Plaintiff's job as Network Technician.
3. Punitive damages.
4. Plaintiff's attorney's fees.
5. Costs of suit and for such other and further relief as the court deems proper.

Respectfully Submitted,

DATED: June 30, 2016

By: /s/Timothy A. Chandler 
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